

No. 2930.

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United States  
Circuit Court of Appeals,  
FOR THE NINTH CIRCUIT.

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Wong Chung,

*Appellant,*

*vs.*

The United States of America,

*Appellee.*

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APPELLANT'S BRIEF.

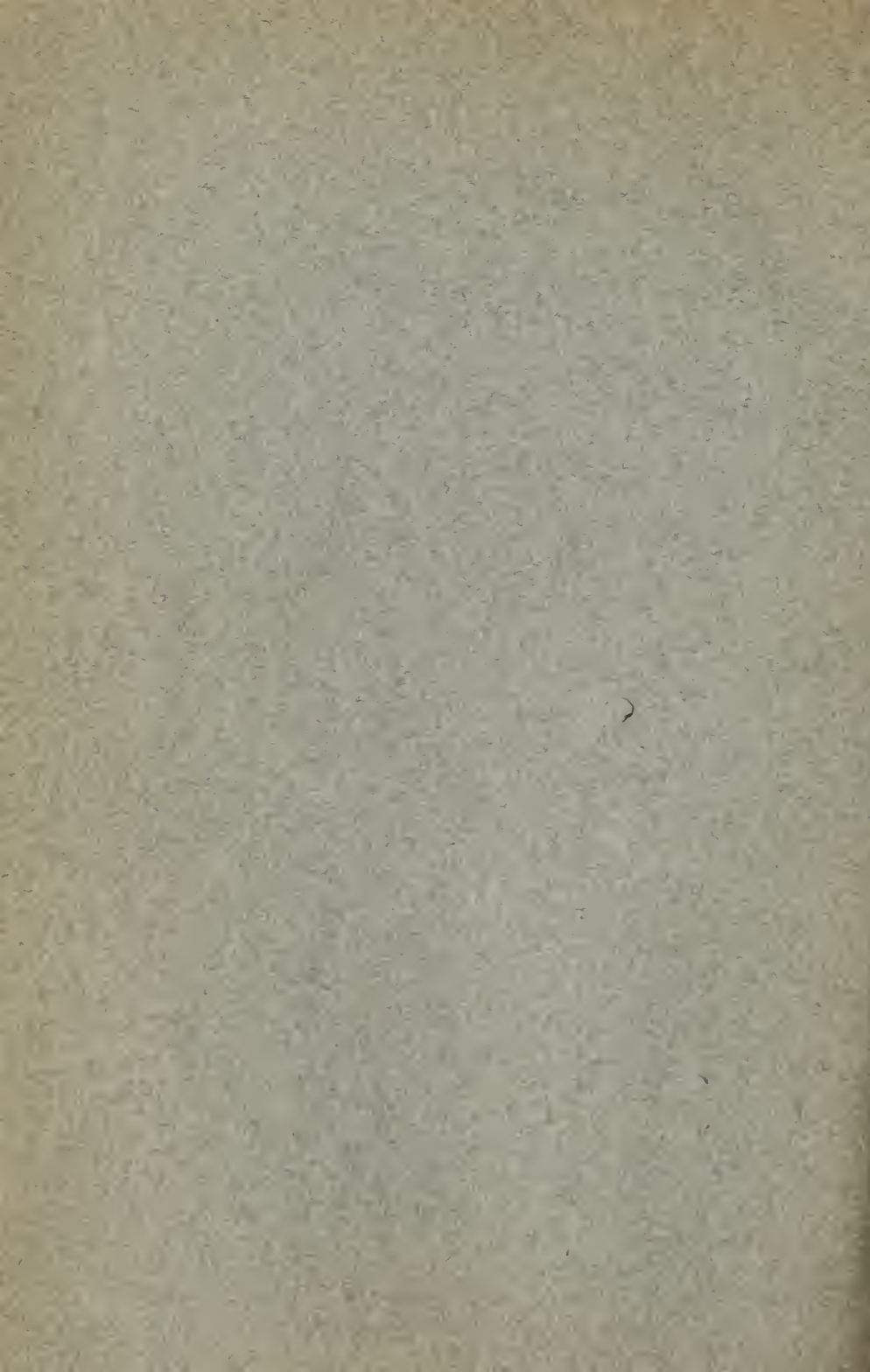
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## APPELLANT'S BRIEF.

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### STATEMENT.

Appellant appealed from the order of Honorable Oscar A. Trippet, one of the judges of the United States District Court for the Southern District of California, made on November 6th, 1916, which affirmed the order of the United States commissioner for said district ordering the defendant to be deported to China.

Appellant is charged with being a laborer without a certificate of residence.

It is appellant's contention that the court erred in not finding that he was a citizen of the United States by reason of his birth and in ordering him deported to China, as particularly set out in the assignment of errors, page 28 of transcript.

### EVIDENCE.

In substance the evidence is as follows:

W. A. BRAZIE testified that he was a Chinese inspector and had known the defendant since last May and saw him in a laundry in Los Angeles, and that defendant was washing clothes and told him he was a washerman.

WONG DO TOY testified that he is 44 years of age and lived in Los Angeles 28 years; that he had known the appellant about 20 years; he became acquainted with the defendant at a certain restaurant in Los Angeles to which place the appellant and his uncle came and that the boy at the time was 6 years old and stayed with him about two or three years, and he knows him to be the boy who was brought to his restaurant 20 years ago, and knew his uncle.

WONG MOY testified that she is 67 years of age; could not speak English and had lived in Los Angeles a long time and knows the appellant since he was three or four years old and remembers when his uncle, Wong Guey, came to Los Angeles with him and explained

that the boy had no father or mother living and she is sure the appellant is the same boy.

The defendant in substance testified that he had never lived in China; that he came to Los Angeles when he was very small and had lived among the Chinese, working at various places with them; his early recollections of his father and mother are very meager because, as shown by the other proof, they had died or left him when he was very young, to live with his relatives.

### **ARGUMENT AND AUTHORITIES.**

The testimony of the defendant and his witnesses is very clear and plain to the effect that he was born in San Francisco about 30 years ago. Some apparent discrepancies or confused answers of the defendant in his statements to the immigration inspector are readily explained upon the theory that being apprehended and taken to the office of the immigrant inspectors he was required to answer a great many questions, which are customarily put in a form to confuse and get just such answers.

By section 21 of the Act of February 20th, 1907, the period for the deportation of an alien, subject to deportation under the provision of that act, or of any law of the United States, is fixed at three years. Not only must the alien be deported within that time, but he must be actually sent out of the country within that time.

U. S. v. Oceanic S. S. Co., 211 Fed. 967;

International Mercantile Co. v. U. S., 192 Fed. 887.

There should be some evidence contradicting statements of appellant's witnesses or something in their testimony rendering the same inherently improbable before the judgment of the trial court ordering the deportation should be sustained.

It is therefore respectfully submitted that the cause should be reversed and appellant discharged.

Respectfully submitted,

DUKE STONE,  
*Attorney for Appellant.*